STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	**)**	
On its Own Motion	**)**	
	)	**ICC Docket No. 01-0662**
Investigation Concerning Illinois Bell	**)**	**PHASE II**
Telephone Company's Compliance	**)**	
with Section 271 of the	**)**	
Telecommunications Act of 1996	**)**	

REPLY AFFIDAVIT OF

MICHAEL KALB, PH.D.

ON BEHALF OF

AT&T COMMUNICATIONS OF ILLINOIS, INC., TCG CHICAGO, TCG ILLINOIS AND TCG ST. LOUIS

PHASE II - AT&T EX. 2.1

March 12, 2003

I. INTRODUCTION & SUMMARY OF AFFIDAVIT

1. My name is Michael Kalb. My business address is AT&T Corp., One AT&T Way, Bedminster, New Jersey.

2. I am the same Michael Kalb that filed an Affidavit on February 21, 2003 in this proceeding.

3. I respond to the March 3, 2003 Phase II Rebuttal Affidavit of SBC Illinois Witness James D. Ehr ("Ehr Rebuttal"). I also will respond to the February 21, 2003 affidavits of Staff Witnesses Dr. Melanie K. Patrick and Samuel S. McClerren. Finally, I will briefly comment upon the remedy plan dispute raised by WorldCom Witness Karen Kinard.

4. Specifically, I respond to Mr. Ehr's arguments supporting SBC Illinois' proposal to replace the existing Commission-ordered remedy plan adopted in Docket No. 01-0120 ("Commission Plan" or "01-0120 Plan") with its radically different "Compromise" Remedy Plan. I will not repeat all the points I previously made in my February 21 Affidavit on the myriad defects in the "Compromise" Plan. I therefore refer the Commission to my earlier affidavit. I will instead reply to the few substantive points raised by Mr. Ehr, including his incredible assertion that the "Compromise" Plan somehow bears some resemblance to the Commission Plan. As I showed in my initial affidavit, and as I discuss here, the "Compromise" plan is operationally as similar to the Commission plan as a mouse is to a lion; that is, not at all. Thus, as I discuss below (and also showed in my

earlier affidavit), the "Compromise" Plan is neither a compromise nor is it a viable plan.

5. I also respond to Staff's proposed edits to the Commission Plan, along with their points supporting the 01-0120 Plan. Finally, I will provide brief support for WorldCom's proposals to make two additional performance measurements remedy eligible.

II. RESPONSE TO SBC ILLINOIS WITNESS JAMES EHR

6. Not surprisingly, SBC continues to advocate that the "Compromise" Plan should replace the Commission Plan. What is surprising, however, is the rather lengthy Ehr Rebuttal fails to respond to my two main criticisms of the "Compromise" Plan.

7. *First*, I noted that the "voluntary" nature of the "Compromise" Plan strips the Commission of any post-271 oversight role. (Kalb Aff. ¶¶10, 11, and 17). This is because SBC has the right to "not consent" to any Commission-ordered changes. Hence, if SBC offers increasingly poor wholesale service after Section 271 authorization occurs, the "Compromise" Plan allows SBC Illinois to literally blackball any Commission action strengthening the plan. As I stated in my affidavit, this feature is lifted directly from the old, highly discredited "Texas" Remedy Plan and was expressly rejected by the Commission in Docket No. 01-

0120. Moreover, SBC has recently used the "consent" provision to attempt to derail the Texas PUC's efforts to improve its plan.[1]

8. *Second*, SBC does not attempt to rebut my points that the Commission Plan meets the FCC's criteria for a Section 271 remedy plan, whereas the "Compromise" Plan does not. This gaping omission is significant. It shows to me SBC's grudging acknowledgement that the Commission Plan indeed meets the FCC's standards, and would be accepted by that commission if required as a prerequisite for Section 271 authority.

9. SBC did not just ignore much of my prior affidavit. Mr. Ehr made a number of points supporting the company's agenda to replace the Commission Plan with the ineffective "Compromise" Plan. As I briefly discuss below, however, much of what SBC claims as reasons for eliminating the Commission Plan are not accurate and certainly should not receive any serious Commission consideration.

10. SBC claims that the language in the "Compromise" Plan was negotiated with two CLECs. (Ehr Rebuttal, ¶195). This is truly an insignificant pronouncement. Illinois has far more than just two CLECs. It is notable that no Illinois CLEC – even the primary "negotiator" of the "Compromise" Plan, TDS MetroCom – uses this ineffective proposal. Moreover, it is the height of arrogance to presume that private negotiations of SBC and two evidently disengaged parties should

[1] *See*, Southwestern Bell Telephone Company, L.P. D/B/A Southwestern Bell Telephone Company Motion for Reconsideration and Clarification of Order No. 45, p. 3, Texas PUC Project No. 20400 (November 1, 2002).

substitute for the Commission's reasoned judgment, reached after 17 months of testimony, hearings, and briefing in Docket No. 01-0120.

11. SBC asserts that the "Compromise" Plan "better reflects the current performance environment". (Ehr Rebuttal, ¶191(a)). Hence, SBC implicitly concludes, it is appropriate to replace the Commission Plan with something that allows them to pay less in remedies when service deteriorates. In support of this agenda, SBC claims that its claimed improvement in wholesale service quality predated, and is therefore somehow independent from, the Commission Plan's implementation in September 2002. (Id., ¶¶193, 198-201).

12. SBC's contention, however, is false. SBC's claimed improvement in its wholesale service quality is founded on two grounds, one of which relates to its incentives prior to obtaining Section 271 authority, and the second of which is indeed a direct result of the Commission's 01-0120 Plan.

13. First, SBC's claimed improvement in service quality is anticipated now, *when the company is seeking Section 271 authority.* It would be very surprising for SBC to claim otherwise. Now, SBC has the "carrot" of Section 271 authority as a reward, and every reason in the world to claim that its wholesale service quality meets the requirements of Sections 251 and 271. The real point of a remedy plan, however, is to prevent *post-Section 271* backsliding. Once SBC has interLATA authority, it will no longer have the incentive of any Section 271 "carrot" to offer adequate

wholesale service to CLECs. The primary protection[2] is the remedy plan. That is why it is crucial to retain an effective plan, like the existing Commission Plan, and not adopt a weak "voluntary" plan that strips the Commission of any meaningful oversight authority.

14. Second, SBC's claimed improvement in service quality indeed should have predated the adoption of the Commission Plan. SBC knew months prior to the adoption of the Commission Plan that the old "Texas" Plan was likely going to be replaced with something more robust. Thus, SBC had a real need to work on its OSS prior to the 01-0120 Plan's effective date in order to avoid paying large remedies in the early months the 01-0120 Plan was in effect. For SBC to passively wait while the Commission adopted its plan would have been an irrational act contrary to ordinary business sense. Thus, improvements in wholesale service quality in the months prior to the adoption of the Commission Plan is partly due to the pendency of that decision. The incentive quality of the Commission's plan was beginning to "kick-in."

15. SBC further claims that the "Compromise" Plan leads to "significantly higher remedies than plans that have already been found sufficient for section 271 purposes by the FCC." (Ehr Rebuttal, ¶192(b)). This means, according to Mr. Ehr, that the "Compromise" Plan is somehow sufficient for Section 271 purposes. (Id., ¶190).

[2] If the Commission were to structurally separate SBC into wholesale and retail units, the incentive of that company to offer poor (and expensive) wholesale service to favor its retail arm would be drastically reduced.

16. SBC does not offer any support for this theory, which is not surprising. I am familiar with a number of Section 271 remedy plans already approved by the FCC that are far more robust that the ineffective "Compromise" Plan, such as the remedy plans adopted by New York and Florida and the new plan adopted by the Texas Public Utility Commission under the FCC approved rules. Thus, it is not true that all prior Section 271 plans are less robust.

17. In addition, SBC's point is irrelevant. It is true the FCC previously accepted the "Texas" Plan which, as the Commission knows, is entirely ineffective and, worse, a "voluntary" plan. However, I hope and expect the real life experiences of parties operating under the Texas Plan would provide meaningful insight and guidance for adopting better future Section 271 remedy plans. In fact, as discussed below, the Texas Commission itself has recently attempted to implement a more robust remedy plan by, among other things, neutralizing the k-table included in the original – and now replaced – Texas Plan.

18. Nevertheless, it is a fool's errand to compare the "Compromise" Plan with the old Texas Plan. The Commission already has rejected this Texas Plan, and ruled that SBC's wholesale service quality was poor under that plan. This Commission specifically found: "The evidence presented by the CLECs and Staff established that currently, Ameritech provides substandard service to the CLECs often on a frequent and ongoing basis. That evidence also established that Ameritech does not appear to suffer any meaningful consequence as a result of delivering such service." (Order, Docket No. 01-0120, p. 41) The fact that the "Compromise"

Plan may provide more in remedies than the fatally defective Texas Plan is therefore not, in my opinion, a relevant comparison or significant accomplishment.

19. Other states have learned from experience as well. For example, as I discussed in my initial affidavit, the Texas Commission has recently attempted to strengthen the "Texas" Plan.[3]

20. In contrast, the effectiveness of the Commission Plan is shown by the fact that remedy payments are not consistently higher now than in the past. Thus, SBC is incorrect in insinuating that remedy payments somehow are unduly high under the Commission Plan, and that this is a primary motivation for keeping the status quo. Remedy payments under the Commission Plan have dramatically decreased after the first full month it was in effect and generally used by larger CLECs, which shows SBC is responding to this robust plan in exactly the intended manner.

21. I attach for the Commission's reference as Exhibit 1 a chart I obtained from SBC showing Illinois remedy payments for the period July 2000 through December 2002. This chart shows dramatic decreases in remedy payments for the months of November and December, when compared to the first month (October) the Commission Plan was in effect and widely used by CLECs. The combined SBC Illinois Tier 1 and Tier 2 remedies for October through December were $4,095,100, $1,787,441 and $1,633,970, respectively.

[3] The fate of the Texas PUC's efforts are still pending, however. As I discussed earlier, SBC is using the "consent" provision in the old Texas Plan (which is also a feature of the "Compromise" Plan) to attempt to "blackball" these improvements.

22. This decline in payments shows what is important to CLECs, and a point I cannot over emphasize. AT&T is far more interested in collecting *customers* than *remedies.* An ineffective plan – such as the "Compromise" Plan – reduces the necessary incentive for SBC to provide adequate wholesale services to CLECs, and thus makes it more difficult for competition to succeed.

23. SBC contends that the "Compromise" Plan is somehow not a complete re-write of the Commission Plan. Indeed, the bulk of Mr. Ehr's Rebuttal focuses on extensive arguments supporting this theory. (Ehr Rebuttal, ¶¶205-232).

24. I do not plan to respond *seriatim* to each of these contentions, since much of what is said I addressed in my earlier affidavit. Nevertheless, a few points need to be made on the profound differences between the existing Commission Plan and the "Compromise" Proposal.

25. One obvious point needs to be made when comparing the Commission and the "Compromise" plans. First, Exhibit 1 to my earlier testimony was an SBC document that reflects, in redline format, the huge differences between the Commission Plan and the "Compromise" plan. Other than a few structural similarities, and selected statistical elements, the two plans could not be more different.

26. In addition, SBC's argument that the "Compromise" Plan is somehow similar to the Commission Plan is facially disingenuous. If these two plans were so similar, why on Earth is SBC wasting the parties' time at this late date in this case with relitigation of this issue? The answer, of course, is obvious: SBC abhors the

existing plan and desires to replace it with something completely different and far less effective.

27. Mr. Ehr produces a chart "showing" the similarities between the Commission and "Compromise" Plans. (Ehr Rebuttal, between ¶¶205 and 206). This chart, however, is extraordinarily inaccurate and misleading. Many of the purported similarities between these two plans are either not remedy affecting or were supplanted by other new and weakened provisions of the "Compromise" Plan.

28. For example, it is true the "Compromise" Plan has no explicit k table exclusion on remedies. It is also true, however, as I discussed in my earlier affidavit, that the "Compromise" Plan uses a new indexing feature that reduces remedies for individual failed (potentially severely) submeasures when there may be overall performance improvements.[4] In effect, the k table is replaced by a feature that accomplishes the exact same result implicitly: remedies are reduced despite continuing demonstrably poor performance.[5]

29. The chart also shows many differences between the Commission Plan and "Compromise" plan. For example, the audit proposed here by SBC is a complete re-writing of the Commission's annual requirement, yet it is somehow contained in a chart showing the similarities between the two plans. Moreover, I count five other proposed changes provided in the chart. Indeed, of the eleven items listed

[4] I specifically offered an example in my affidavit showing how, when service improves incrementally but is still dismal, remedies for each occurrence plummet. (Kalb Aff. ¶35).
[5] Under both the "k table" and the index proposal, remedies are reduced for individual failed (potentially severe) submeasures for overall slight performance improvements. Whether this is done under the guise of pseudo-statistics (the k table) or whether it is done by fiat (the index proposal) is frankly irrelevant.

by Mr. Ehr, over half are admitted by him to be changes from the existing plan. The chart, then, is significant in that even where SBC tries to show the purported similarities, the world of difference between the Commission Plan and the "Compromise" plan comes through loud and clear.

30. Mr. Ehr incorrectly claims that I ignored the radically new step up/step down feature in the "Compromise" proposal. (Ehr Rebuttal, ¶210). I discussed this complicated and unnecessary proposed change in paragraphs 38, 44, 49 of my affidavit.

31. Mr. Ehr casually uses the term "liquidated damages" to characterize remedy payments, but not once responds to my criticisms about the problems with reinserting this "leftover" from the Texas Plan. (*See, e.g.,* Ehr Rebuttal ¶¶213-214). I think SBC's silence actually speaks volumes. "Liquidated damages" is a term of art where the parties agree that a certain level of payments absolves a particular entity of responsibility. In Docket No. 01-0120, the Commission eliminated this phrase from its plan. SBC desperately wants it back in, however. The reason is simple. SBC wants to use its remedy payments to shield it from additional potential liability (such as an anti-trust claim or Commission fines) if it were to use poor wholesale service quality as a weapon to harm competition. I urge the Commission to avoid this trap and to retain its correct decision in Docket No. 01-0120 characterizing payments as "remedies."

32. SBC also fails to rebut my claim that the indexing values it proposes are entirely arbitrary and without any statistical or economic basis, other than asserting these

values were derived from "negotiations" with two entities that do not even use the "Compromise" Plan in Illinois. (Ehr Rebuttal, ¶¶214 and 216). The lack of a rebuttal is noteworthy since the indexing values are, indeed, entirely arbitrary and without any reasoned basis. Their only use is to reduce remedy payments when poor wholesale service is being offered, but is slightly less "bad" than the prior month. This indexing scheme easily lends itself to "gaming" by SBC. I urge the Commission to reject this competitively harmful feature.

33. Responding to WorldCom's criticism of the indexing approach that it allows the company to engage in tactical discrimination, SBC claims this is not feasible because it uses common systems and procedures for serving all CLECs. (Ehr Rebuttal, ¶221). SBC misses the point. All CLECs do not have the same account representatives, do not operate in the same wire centers, and most importantly, offer different services. Thus, CLECs do not purchase the same wholesale services from SBC and are therefore often not gauged by the same performance submeasures.

34. SBC defends its "floors and ceilings" proposal, saying it is similar to parity with a floor, which Staff and the CLECs advocated in Docket No. 01-0120. (Ehr Rebuttal, ¶¶223-225). SBC ignores the substance of my earlier criticism however. (Kalb Aff. ¶¶11, 37, 46, and 49). In Docket No. 01-0120, the Commission rejected parity with a floor. The Commission also ruled that parties are not permitted to retry the nuances of the remedy plan issue here. (Order, Docket No. 01-0120, pp. 20, 27-30). My point is a portion of this proposal

already has been rejected, regardless of its merit, and we are not permitted to relitigate it here. In addition, I also testified that the "ceiling" provision is, frankly, a bad ideal. A "ceiling" only accomplishes one thing: the incentive to reduce performance.

35. Similarly, SBC misstates my earlier testimony regarding the "Compromise" Plan's use of weighting for remedy amounts. (Ehr Rebuttal, ¶226). As Mr. Ehr acknowledged, the Commission already rejected the Staff and CLEC proposals to eliminate weighting. Hence, we are not permitted by the Commission to relitigate this "nuance" of the remedy plan issue at this late date. (Order, Docket No. 01-0120, pp. 46-47). What SBC proposes here is a perversion of the Staff and CLEC proposal, since weighting (and doubling) of remedy amounts as required in the Commission Plan are replaced by one extraordinarily low level in the "Compromise" proposal.[6]

36. I offered extensive testimony on a number of SBC changes to the Commission Plan, the sole purpose of which is to limit SBC's liability for offering poor wholesale service. (Kalb Aff., ¶¶31-34). I will not reiterate these issues here, other than to note that many of them – such as SBC's re-imposition of the "Texas" Plan's many unreasonable exclusions on remedy payments – were specifically rejected by the Commission in Docket No. 01-0120. SBC dismisses

[6] I certainly would not oppose adoption of one level here, if it were the "high" level and doubled, as already contained in the Commission Plan.

these myriad changes as "reasonable," with no effort to substantively respond to my specific points. (Ehr Rebuttal, ¶227).

37. A good example of how the Commission Plan is self-executing and the "Compromise" Plan is not is in the payment mechanism. The Commission Plan uses a simple opt-in format, with the default mechanism to be by check. The "Compromise" Plan, however, requires CLECs to complete a new form to designate payment information. (Ehr Rebuttal, ¶228).[7]

38. I previously offered extensive criticisms of SBC's attempt to resurrect the "Texas" Plan's mini-audit process. (Kalb Aff., ¶¶11 and 29). My primary criticism is SBC's proposal to confer it a veto over the choice of the auditor, whereas the existing plan makes the Commission the final arbiter of who the auditor will be. SBC ignores this point and instead says the changes to the mini-audit process are "slight." (Ehr Rebuttal, ¶229).[8]

39. SBC claims the Commission Plan's statistical methodology is unchanged in the "Compromise" Plan, with one exception. (Ehr Rebuttal, ¶230). This one exception, however, is significant. SBC's proposes to not compare CLEC results to retail results or SBC affiliate results for small affiliate sample sizes (defined as fewer than 30 transactions). In these circumstances, SBC will only use retail results. This explicitly allows SBC to favor its affiliate. The reason is simple.

[7] Later in the same affidavit, SBC seems to backtrack from its onerous opt-in proposal, and concedes the one used today in the Commission Plan is acceptable. *See,* Ehr Rebuttal, ¶238.
[8] Bizarrely, Mr. Ehr's only "responsive" point on the audit process concerns the payment mechanism, something I did not even discuss.

SBC consistently refuses to provide to CLECs the retail results of its affiliates. Hence, there is no way for CLECs to verify that SBC's affiliate is, in fact, engaging in a few transactions. Because of this, SBC can claim its affiliates transactions are fewer than 30 with the secure knowledge that a CLEC is helpless to verify this claim, absent calling for an expensive (at least it is under SBC's proposal) mini-audit. Moreover, it is more significant that the affiliate could be getting very good service, albeit for less than 30 transactions. This would be discrimination against the CLECs who often each have less than 30 transitions as well. The affiliate could demonstrate to customers that it was the best quality provider, and there would be no remedy for the CLECs, whose performance would be compared to SBC retail performance, which would be held to parity levels with the CLECs.

40. SBC seems to accept Staff's proposal of "entering negotiations" in 36 months to determine if the remedy plan should continue beyond its four-year term. (Ehr Rebuttal, ¶239). While I do not object to Staff's proposal, SBC's agreement is meaningless if the Commission adopts a "voluntary" plan because SBC would have to "consent" to any changes to the plan, including presumably its term.

41. As I discussed in my earlier affidavit, the Commission rejected SBC's proposal to call payments "liquidated damages." (Kalb Aff. ¶¶10, 11, 27). Despite already losing this issue, SBC is attempting to sneak this phrase back into its plan. Thus, like its predecessor, the Texas Plan, the "Compromise" proposal calls remedy payments "liquidated damages." SBC does not respond to my testimony on this

point, which is surprising, given the Company's penchant for the plan to be based upon the "consent" of the parties.

42. Indeed, the concept of "liquidated damages"[9] is expressly predicated upon the consent of all parties that the designated payments are agreed-to in advance. Here, of course, most CLECs do not agree to the nominal remedy payments SBC wishes to make under its untried "Compromise" Plan, as was the case previously with the Texas plan. It is inappropriate to designate remedy payments as "liquidated damages" since whatever payment level is ultimately ordered will not likely have the consent of all the parties. In fact, the very reason the Commission Plan calls such payments "remedies" is because SBC did not "consent" to the level of payments. I am not a lawyer, but it would seem that to misname remedy payments as "liquidated damages" would be a serious legal mistake. Moreover, as the CLECs warned in Docket No. 01-0120, the unspoken reason SBC wanted to call such payments "liquidated damages" was, in a perverse sense, to assist it with any appeal. Specifically, SBC would argue to courts that the remedy plan

[9] We may define the "damages" due to losing a customer, in a simple way, as the sum of three terms: the non-recurring charge, the recurring charges multiplied by the average time a customer stays with us, and the consequential damages due to bad word of mouth, lost new customers, etc. You would then take this sum and multiply it by the number of customers that were lost due to failed ILEC performance. To follow through on this program one would then define "liquidated damages" by agreeing with the ILEC (in a contractual context) to an estimate of the consequential damages and number of ILEC induced lost customers.

payments are improper "liquidated damages" since they did not have its consent.[10] The Commission should not fall into the trap it expressly avoided in Docket No. 01-0120 and misname the payments "liquidated damages." Moreover, calling payments "liquidated damages" also will make it hard for the Commission to monitor and, if necessary, makes changes to the plan during its term. This is because, as I explained in my earlier affidavit, the party committing to paying the certain level of remedies (that is, SBC) is agreeing in advance to the payment levels. If the Commission were to use the term "liquidated damages," it would make it possible for SBC to claim that the Commission has no authority in the future to tweak the plan (unless SBC "consents"). I therefore urge the Commission to again do the right thing and avoid this new trap SBC is laying. Renaming remedy payments as "liquidated damages" would, as a major consequence, assist SBC in stripping the Commission of its power to monitor and alter the plan on a going forward basis.

III. RESPONSE TO STAFF WITNESSES MR. MCCLERREN AND DR. PATRICK

43. I agree with most of Staff's extensive and well-thought criticisms of SBC's "Compromise" Plan. I will not reiterate Staff's cogent testimony.

[10] This is not mere speculation. I have been advised by counsel that SBC makes this very argument in its appeal of the Wisconsin Commission's remedy plan.

44. I would like to respond to Staff's "Hybrid" Plan. Unlike SBC's desire to relitigate the nuances of the remedy plan issue,[11] Staff proposes only a few changes to the Commission Plan. These changes appear to be fine-tuning of the existing plan, and not, as SBC seems to want, a completely gutting of the plan's vital elements. Staff's "Hybrid" proposal includes the SBC proposed "Gap Closure" procedure, the SBC step-down table, and reductions in Tier I and Tier II base remedy amounts. Since AT&T's primary objective for a remedy plan is to maintain adequate levels of wholesale performance, I do not object to a "Gap Closure" procedure. Also, the step-down table, while it is complicated in structure and moves too rapidly back to base remedy amounts, represents an improvement over going directly to base remedy amounts with one month of conformance. The table could be simplified by replacing it with a simple procedure that steps up and down, with each month of measure failure and conformance, respectively. Finally, the reduction of remedy base amounts can only reduce the incentive for SBC to provide adequate wholesale service. However, only time and subsequent review will tell whether this reduction will cause SBC to view the plan as merely a cost of doing business. Thus, while I do not support changes to the existing plan, I do not oppose Staff's proposed "Hybrid" Plan.

[11] As I discussed in my earlier affidavit, the Commission ruled in Docket No. 01-0120 that parties are not permitted here to relitigate the nuances of the remedy plan issue. (Kalb Aff. ¶¶8-9).

IV. RESPONSE TO WORLDCOM WITNESS KAREN KINARD

45. WorldCom raises two disputes arising from the recently completed six-month review. (Kinard Aff., ¶¶42-51). Specifically, WorldCom proposes that two performance measurements currently classified as "diagnostic," and therefore ineligible for remedies, should now be able to obtain remedies. These performance measurements are PM MI 13.1 (governing line loss notifiers) and PM MI 12 (billing completion process errors).

46. AT&T supports WorldCom's proposal. As Ms. Kinard explains in her February 21, 2003 affidavit, and in more detail in her rebuttal, these two performance measurements apply to two SBC services for which existing performance measurements and associated remedies do not evidently prevent poor wholesale service. I also refer the Commission to WorldCom Witness Ms. Lichtenberg and AT&T Witness Mr. Connolly, who respectively provide extensive testimony regarding SBC's poor billing and line loss notifier systems

V. CONCLUSION

47. The many defects in the "Compromise" plan plainly demonstrate why no other state has adopted this ineffective proposal as the Section 271 remedy plan. In addition, Illinois has a very positive experience under the existing plan. I urge the Commission to not replace its plan, which is proven and effective, with an untried and ineffective "voluntary" plan. I therefore recommend that the Commission retain the 01-0120 Plan and affirmatively find that it meets the public interest test

for purposes of Section 271. In the alternative, if the Commission opts to make any changes to the existing plan, it should adopt only limited changes similar to those proposed by Staff. Finally, I join in WorldCom's recommendation to make two performance measures eligible for remedies.

48. This concludes my affidavit.